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October 21, 2022

VIA ECF AND EMAIL

The Honorable Andrew L. Carter, Jr., U.S.D.J.
United States District Court
Southern District of New York
40 Foley Square, Room 435
New York, NY 10007
ALCarterNYSDChambers@nysd.uscourts.gov

Re: *Malcolm v. The City of New York*
20-cv-09641(ALC)

Dear Judge Carter:

This letter is submitted on behalf of the parties to respectfully update the Court on the status of the litigation and to propose a path forward.

Initially, Defendant filed a motion to dismiss the Plaintiffs' second amended complaint on October 21, 2022, which will be opposed by Plaintiffs on or before November 14, 2022.

Moreover, on October 19, 2022, Defendant provided a list of all employees in the relevant titles for the last three years except for certain employees who collected damages for similar claims in a recent settlement agreement in *Nell, et al. v. City*, 19-CV-06702.¹ On October 20, 2022, counsel for the parties met and conferred and after extensive discussion propose the following. By November 14, 2022: (1) Plaintiffs will send notice to the collective members via first class mail and personal email; and (2) Defendant will send notice to the collective members via work email and certify to the Court that it has done so. Assuming that notice is effectuated by November 14, 2022, the notice period will end on January 13, 2023.

By February 13, 2023, Defendant shall produce to Plaintiffs' counsel FISA and CityTime data for the named Plaintiffs and collective members who have opted in sufficient to permit Plaintiffs to calculate a settlement demand.

By March 31, 2023, Plaintiffs shall provide Defendant with a settlement demand.

Within 8 weeks of Plaintiffs' demand, by June 1, 2023, the parties request to appear before a Magistrate Judge for a settlement conference or be referred to the SDNY's mediation program.

It is the parties' hope and intent that the matter be resolved through settlement. However, if the case is not resolved by July 1, 2023, the parties will submit a proposed case management scheduling order to address any remaining discovery.

¹ *Nell* settled in November of 2021. Plaintiffs requested their names for purposes of relief for alleged claims following that date, and defendant will produce those names by October 31.

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Respectfully submitted,
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cc: All Counsel of Record (VIA ECF)